HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
and
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.2077 OF 2007

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Between:
Smt.Alimineti Uma Devi

..... Petitioner

AND

The Union of India, Ministry of Defence,
Represented by its Secretary, New Delhi
and others.

.....Respondents

::ORDER::

Counsel for the Petitioner : Sri S.Ramchandra Rao,
Senior Advocate assisted by
Sri B.Srinivas

Counsel for Respondent Nos.1&7 : Sri A.Rajasekhar Reddy
Assistant Solicitor General

Counsel for Respondent Nos.2 to 5 : Government Pleader for
General Administration.
Counsel for Respondent No.6 : Ms.V.Uma Devi

Dated 18.9.2007

Per Sri G.S.Singhvi, CJ

Apprehending that they will be deprived of their source of livelihood i.e. the agricultural land, some of the residents of Bhongir, Narayanpur, Choutuppal, Janagam joined by two members of the Legislative Assembly and other public representatives from the Districts of Nalgonda and Ranga Reddy have filed this petition for grant of a declaration that acquisition of about 30,000 acres of land of Nalgonda and Ranga Reddy District for establishment of Rachakonda Field Firing Range (hereinafter referred to as 'the Field Firing Range') by the Ministry of Defence, Government of India is illegal and violative of the constitutional provisions contained in Articles 14, 19, 21 and 300-A of the Constitution of India. They have further prayed for restraining the respondents from acquiring the lands falling in Malkapuram, Devalamma Nagaram, Allahpur, Pipal Pahad, Mohammadabad, Narayanapur, Janagao, Rachakonda, Tippaigudem, Dandu Mailaram, Hafizpur, Vaillapalli, Chillapur, Ibrahimpatnam, Arutla and Mukunur Villages.

In the affidavit filed by him, Sri Mohd.Gulam Rasool, who is a Member of Mandal Parishad Territorial Constituency, Narayanpur and is also the District Executive Member of the Communist Party of India, has averred that if the Field Firing Range is established in the areas of Nalgonda and Ranga Reddy Districts, thousands of land-holders will be deprived of their agricultural land and wild life will also get

adversely affected. He has made reference to memorandums submitted by the public representatives against the establishment of the Field Firing Range and pleaded that the Government of India is bent upon to acquire agricultural lands of various villages for the Field Firing Range.

Respondent No.1 has filed counter in the form of affidavit of Sri I.Paul, Assistant Defence Estates Officer. The deponent has averred that the establishment of the Field Firing Range is still at the proposal stage and that the apprehension expressed by the petitioners about acquisition of about Ac.30000 of land is not well founded. Sri I.Paul has stated that as and when the private land (approximately Ac.3700) will be required for establishing Field Firing Range, action will be taken in accordance with the relevant legislative instruments and in accordance with the procedure established by law. He has also averred that the Government of India, Ministry of Defence and the Government of Andhra Pradesh have formulated policies for rehabilitation and resettlement of the project affected people and the same will be given effect to before the villagers are uprooted from the present sites.

It is also borne out from the counter affidavit that Ac.16379.60 of forest land may be utilized for the purpose of establishing the Field Firing Range. This would necessarily mean that before putting the forest land for any other use, the concerned authority will seek prior approval from the Central Government in terms of Section 2(2)(b) of the Forest (Conservation) Act, 1980 (for short 'the Act').

Sri S.Ramachandra Rao, Senior Advocate, appearing for the petitioners submitted that if the Field Firing Range is established without adequately compensating the affected villagers, they will be

deprived of their only source of livelihood. He submitted that the Court should protect the rights of innocent villagers who will be deprived of their land for the purpose of Field Firing Range and issue directions as was done in Writ Petition No.17368 of 2005 and batch.

Sri A.Rajasekhar Reddy, learned Assistant Solicitor General submitted that the writ petition should be dismissed as premature because the establishment of the Field Firing Range is only at the proposal stage and no concrete decision has been taken in that regard. He further submitted that as and when the private land is acquired, the procedure established by law will be followed.

We have considered the respective submissions. Since the proposal for establishing the Field Firing Range has not been formalized, it is not possible for us to record a finding that the villagers, whose land is likely to fall within the range and is likely to be acquired will be deprived of their legal and constitutional rights. In our opinion, before any of the villager is deprived of his property for establishing Field Firing Range or implementation of similar project, the concerned authority will have to follow the procedure prescribed by law, which would necessarily include acquisition of land by following the procedure contained in the Land Acquisition Act, 1894 and/or other enactment, if any applicable to such cases. Not only this, before dispossessing any landholder, the concerned authority will be duty bound to comprehensively implement the rehabilitation and resettlement policy and compensate the affected person. If forest land is utilized for a non-forest purpose, then prior approval of the Central Government in terms of Section 2(2)(b) of the Act will be required.

However, at this stage, we cannot finally pronounce on the future course of action, which the respondents will adopt for the purpose of establishing Field Firing Range, if any.

With the above observation, the writ petition is disposed of. Needless to say that if the land or property of any person is utilized for establishing Field Firing Range or the action taken by the concerned authority is not in accordance with law, the affected person will be free to avail appropriate legal remedy including by filing fresh petition. If the forest land is used without obtaining approval of the Central Government in terms of Section 2(2)(b) of the Act, the writ petitioners or any public spirited person may seek intervention of appropriate judicial forum.

As a sequel to disposal of the writ petition in the manner indicated above, WPMP Nos.2661 and 2662 of 2007 filed by the petitioners are disposed of as infructuous.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

Dt.18.9.2007
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